

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KALYNN ARZELL WATKINS,

Defendant-Appellant.

UNPUBLISHED

May 20, 2014

No. 314444

Wayne Circuit Court

LC No. 12-002852-FH

Before: RIORDAN, P.J., and DONOFRIO and FORT HOOD, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of first-degree home invasion, MCL 750.110a(2), four counts of assault with a dangerous weapon (felonious assault), MCL 750.82, possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b, and carrying a concealed weapon (CCW), MCL 750.227.¹ He was sentenced to 12 to 20 years' imprisonment for the first-degree home invasion conviction, two to four years' imprisonment for felonious assault convictions, two years' imprisonment for the felony-firearm conviction, and two to five years' imprisonment for the CCW conviction. Defendant appeals by right, and we affirm.

This case arises out of an incident that occurred on January 21, 2012, at the Cummings family residence located at 18507 Fox, Redford Township, Michigan, and defendant's subsequent arrest. Brothers Keith and Michael Cummings were at defendant's residence when Keith and defendant argued about an outstanding debt. Keith left defendant's home. Michael and defendant engaged in a physical confrontation outside defendant's home. Defendant went into his home "to get something," and Michael ran to his family's residence on Fox street. Defendant arrived at the Cummings residence in a vehicle carrying a gun. Witnesses testified that defendant forced his way into the house and pointed a handgun at the occupants. Defendant left, but was later arrested by police after a traffic stop. Police found a loaded handgun in the glove box of the car in which defendant was then a passenger. Police later discovered pictures

¹ Defendant was also charged with discharge of a firearm in or at a building, MCL 750.234b, and two additional counts of felonious assault, MCL 750.82, but the jury acquitted him of those charges.

on defendant's cell phone depicting the gun and defendant holding the gun. They also seized ammunition compatible with the gun from defendant's home.

Defendant raises a single issue on appeal, arguing that there was insufficient evidence presented at trial to support his convictions. We disagree.

When reviewing a claim of insufficient evidence, this Court reviews the record de novo. *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011). The appellate court reviews the evidence in the light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012). Conflicts in the evidence are resolved in favor of the prosecution, and circumstantial evidence and reasonable inferences arising from that evidence may constitute satisfactory proof of the elements of a crime. *People v Bennett*, 290 Mich App 465, 472; 802 NW2d 627 (2010). In reviewing a challenge to the sufficiency of the evidence, the appellate court does not interfere with the jury's assessment of the weight and credibility of the evidence or the testimony by the witnesses. *People v Dunigan*, 299 Mich App 579, 582; 831 NW2d 243 (2013). When the gravamen of the defendant's argument requests that this Court reweigh the credibility of the witnesses, we must decline to do so because it is the province of the jury. *People v Eisen*, 296 Mich App 326, 331; 820 NW2d 229 (2012). The jury may choose to believe or disbelieve, in whole or in part, the evidence and testimony presented during trial. *People v Unger*, 278 Mich App 210, 228; 749 NW2d 272 (2008).

In the present case, defendant does not challenge the individual elements of the offenses, but rather, asserts that there was insufficient evidence to convict because of inconsistencies in the testimony of the witnesses and their statements to police. In fact, defendant alleges that the jury determined that a "good portion" of the testimony by the mother was "unbelievable" as evidenced by the acquittals for three offenses. A review of the trial reveals that defense counsel extensively explored the inconsistencies in the testimony of the witnesses. When challenged regarding any disparity between the testimony elicited at trial and the statements given to the police, the witnesses explained that they were under distress at the time and the scene was chaotic. Despite the challenge to the testimony, the jury found that defendant committed the assaultive crimes and weapon offenses involving four of six of the occupants of the home for his unlawful entry into the home with a weapon that he directed at the occupants. The jury was entitled to conclude that all, some, or part of the testimony by the witnesses was credible. *Unger*, 278 Mich App at 228. We cannot reweigh the testimony of the witnesses because it was the province of the jury to do so. *Eisen*, 296 Mich App at 331. Accordingly, defendant's challenge does not entitle him to appellate relief.

Affirmed.

/s/ Michael J. Riordan
/s/ Pat M. Donofrio
/s/ Karen M. Fort Hood